IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

THURSDAY, THE 1ST NOVEMBER 2007 / 10TH KARTHIKA 1929

WP(C).No. 29285 of 2007(J)

PETITIONER:

N.K.RAMACHANDRAN NAIR, HAVILDAR (RTD),
NARAYANAPURATHU HOUSE, MANTHANAM P.O.,
KUNNAMTHANAM,THIRUVALLA,
PATHANAMTHITTA DISTRICT.

BY ADV. SRI.C.S.GOPALAKRISHNAN NAIR

RESPONDENTS:

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1. UNION OF INDIA REPRESENTED BY THE SECRETARY, MINISTRY OF DEFENCE, SOUTH BLOCK, NEW DELHI-110 001.

2. PRINCIPAL CONTROLLER OF DEFENCE, ACCOUNTS, ALLAHABAD.

3. DEFENCE PENSION DISBURSING OFFICER, NSS UNION BUILDING, THIRUNAKKARA, KOTTAYAM.

4. SENIOR RECORD OFFICER, MADRAS ENGINEER GROUP,POST BOX NO.4201, BANGLORE-560 042.

BY ADV. SRI.P.PARAMESWARAN NAIR, ASST.SOLICITOR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

V.GIRI, J.

W.P.(C).No.29285 of 2007 J

Dated this the 1st day of November, 2007.

JUDGMENT

The petitioner, after rendering service as Hawildar in the Indian Army, later joined the State Government service as a Villageman in the Department of Revenue. He was drawing a defence pension after discharge from the army. While continuing in Government service, the petitioner was convicted by the Enquiry Commissioner and Special Judge, Thiruvananthapuram in a vigilance case. Pursuant thereto, the petitioner was dismissed from service on 18.8.1997. The petitioner approached this court in Crl.A.No.316/99. The criminal appeal was also dismissed on 17.11.2004. The petitioner suffered imprisonment in terms of the conviction and sentence passed by the Vigilance Court and affirmed by this court. In the circumstances, the petitioner did not receive State pension. Petitioner is aggrieved by the fact that the defence pension, which he had been receiving all along, is also stopped with effect from May, 2006. The petitioner refers to Ext.P7

representation submitted to the Defence Pension Disbursing Officer. Ext.P8 will show that the payment of defence pension was suspended on account of the conviction and confinement of the petitioner in the Central Prison, Thiruvananthapuram.

2. Learned counsel for the petitioner submits that as per Rule 4 of the Pension Regulations for the Army, 1961, future good conduct shall be an implied condition of every grant of pension and allowances under the Regulations. He, therefore, submits that a notice must have been issued to the petitioner before the respondents decided to stop the defence pension.

After having heard learned counsel for the petitioner and the learned Central Government Standing Counsel for the respondents, the writ petition is disposed of directing the 2nd respondent to take a decision on the question as to whether the petitioner is entitled to continue to draw his defence pension or whether it is liable to be suspended, in terms of Regulation No.4. A copy of this judgment shall be produced before the 2nd respondent by the petitioner within six weeks from

today. Thereupon, the 2nd respondent shall issue notice to the petitioner, hear him, and take a decision within a period of four months thereafter. The petitioner has a contention that he is entitled to dearness relief on the defence pension on termination of his service from the State Government. This aspect shall also be looked into by the 2nd respondent.

Sd/-
(V.GIRI)
JUDGE

sk/

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P.S. To Judge